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RUEHFR/AMEMBASSY PARIS PRIORITY 0733
RUEHTC/AMEMBASSY THE HAGUE PRIORITY 0346
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C O N F I D E N T I A L SECTION 01 OF 02 PHNOM PENH 000026

SIPDIS

STATE FOR EAP/MLS, DRL, IO, S/WCI
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SUBJECT: FRIENDS OF THE ECCC DISCUSS BUDGET AND JUDICIAL CALENDAR

REF: 09 PHNOM PENH 765

Classified By: DCM THEODORE ALLEGRA FOR REASONS 1.4 (B, D)

¶11. (C) SUMMARY: During a three-hour meeting January 11 which was both active and at times exceedingly technical, the "Friends of the Extraordinary Chambers in the Courts of Cambodia (ECCC)" discussed the budget request for 2010-2011 as well as the preliminary budget estimates for 2012-2015. The Friends Group, which includes donors and the United Nations (UN) and Cambodian administrators, showed general support for the proposed budget, which includes salary increases for staff, but actively questioned several budget line items, demonstrating their desire to cut costs where possible. Describing 2011 as the "peak pain threshold" for donor funding, the UN's Knut Rosandhaug indicated that funding requirements would begin to decrease by the end of 2011 and broached the subject of transferring case 003 to the domestic court to further reduce the total amount required for the tribunal. The role of a proposed Strategic Planner was debated, with Japan and Australia arguing that the position is not needed and duplicative, contrary to the U.S. and UK view. The Friends, surprised to see a budget line item for the Independent Counselor, requested further information and also briefly discussed the status of the Special Advisor. Finally, the Japanese Ambassador ended the meeting by expressing his government's concern with the extension of the judicial schedule (case 002 was originally projected to end in 2011) and requested a mechanism to inform donors regularly on schedule progress. END SUMMARY.

BUDGET PAIN THRESHOLD

¶12. (C) Based on anticipated needs of the Khmer Rouge Tribunal (KRT) for the coming two years, the ECCC's budget request totaled \$46 million for 2010 and \$47.3 million for 2011 (the international side of the court accounts for approximately 75% of the total amount each year). The French Ambassador frankly asked both the national and UN administrators for specific dates of when they will have no more funds. Tony Kranh, ECCC Director of Administration, stated that the national side will run out of money in February. The EU has pledged 2 million Euro, pending both an international agency to implement the funds (UNOPS has unofficially expressed interest), and the amendment of financing agreements. The EU representative estimated the funds may be available in May.

Rosandhaug stated the international side has funds to see it through April, as well as a cash reserve which, after approval from the Steering Committee, could buy another few weeks. The Japanese Ambassador suggested making an international appeal for donors, and to suspend non-urgent expenditures now.

¶3. (C) In a methodical, line-by-line scrutiny, the donors gave general approval of the budget as a whole. Specifically, the donors supported salary increases for staff and judges. Stating that it is "crucial to retain these judges (with experience)," Rosandhaug suggested the Steering Committee will approve the positive adjustment of salary for the judges if no objection is received by January 15.

STRATEGIC COMMUNICATIONS CONFUSION

¶4. (C) The group split, however, on the topic of the creation of new staff positions, specifically that of the Strategic Communications Officer (SCO). The Japanese Ambassador stated he does not support the new position given that there is existing staff supporting this role. The Australian Ambassador agreed, and said she "remains skeptical and doubtful" of the role this person would play. Charge d'Affaires (CDA) and the UK Ambassador argued that the role is fundamentally different from that of Public Affairs, and that the need for a serious, professional, pro-active approach to the court and its legacy should not be ignored. While some donors understood the role of the SCO would be focused on the legacy of the court, others thought it was

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intended to provide media policy going forward. The Japanese Ambassador suggested that (proposed Special Advisor) Clint Williamson "give the strategic guidance" if it is deemed necessary. When asked for an update on the Special Advisor position, Rosandhaug replied that the UN is simply "waiting on funding" before a Special Advisor could be appointed.

SURPRISE OVER IC OPERATIONAL BUDGET

¶5. (C) When the group reached the contractual services portion of the budget, all donors seemed surprised by the dollar amount (\$145,600 for two years shared evenly between the RGC and the UN) affixed to the function of the Independent Counselor (IC). Questioning when and how the amount was determined, the French Ambassador stated, "We all expected less." The donors indicated that detailed reports will be required, and that they are also interested in the basic role and activities of the IC as that mechanism is implemented.

JUDICIAL SCHEDULE

¶6. (C) Although both administrators expect to keep to the current timeline, which was created in consultation with the judges, the dramatics of the final day of Duch's trial, in which he asked for acquittal, increased the likelihood of an appeal in Case 001. The swiftness of Case 002 will depend in part on Pre-trial Chamber permanence (Reftel), but is expected to go to trial in early 2011. Case 003 is scheduled to begin as soon as human resources are available from Case ¶002. Rosandhaug emphasized that the slow start of Case 003 is not due to objections from the Cambodian government, but rather to the need to capitalize on the capacity and institutional knowledge of the current staff, who will first concentrate on Case 002 before phasing into Case 003.

¶7. (C) Rosandhaug informed the donors that at the end of the final closing order for Case 003, the law stipulates that all residual matters of the court be transferred to the ECCC. However, according to Rosandhaug, in 2012 there will be a larger capacity on the national side to handle Case 003 and

suggested that the law could be changed to transfer that case entirely to the domestic court (for this to happen, the Parliament would have to repeal the current law and promulgate a new law). He emphasized that the question is about who will try the case, not the existence of it. The CDA urged the UN and Cambodian government to initiate discussions on the topic to give it the modality and attention it deserves. The Japanese Ambassador agreed, again suggesting it may become "the work of Ambassador Williamson."

¶8. (C) Comment: This 15th meeting of the Friends of the ECCC was substantive, but also revealed gaps in either communication or understanding between the UN, the Cambodian government, and the donors. There was confusion by all parties regarding whether the Strategic Communications position would be more media or legacy focused, and a general consensus that the job description needs to be clarified. Furthermore, the donors requested more transparency and information be shared regarding the IC. The lack of information on the IC's budget served to highlight the overall dearth of information on the implementation of the IC's position. The Japanese Ambassador underscored everyone's desire for better communication by requesting a mechanism whereby the court monthly updates donors on the schedule progress, including explanations and steps taken to address delays. End Comment.

RODLEY